REMARKS

This is a Response to the Office Action mailed February 4, 2005, in which a three (3) month Shortened Statutory Period for Response has been set, due to expire May 4, 2005. Four (4) claims, including one (1) independent claim, were paid for in the application. Claim 21 has been canceled in the present Amendment. Claims 12-14 are currently amended. No new claims have been added. No new matter has been added to the application. No fee for additional claims is due by way of this Amendment. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. Claims 12-14 are pending.

Objections to the Specification

The specification was objected to because of a typographical error on page 2. The specification has been amended to correct this informality.

Claim Objections

Claims 12-14 and 21 were objected to because in claim 12, line 20, the phrase "the,second" requires correction. Applicants have amended claim 12 to correct this informality.

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 12-14 and 21 under 35 U.S.C. § 112, second paragraph as being indefinite. The Examiner noted that in claim 12, line 14, the phrase "said axially to place its flange section" is not clear. Applicants have amended and clarified claim 12 and request that the Section 112 rejection be withdrawn.

Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected independent claim 12 and dependent claim 14 under 35 U.S.C. § 102(b) as being anticipated by Gänslein (EP Application No. 0891007; hereinafter referred to as "Gänslein"). Applicants have reviewed Gänslein and note that the German Utility Patent 8901317 U1 (the "German patent") referenced in Gänslein and enclosed herein, should be

taken into consideration to better understand the motivation and teaching of Gänslein. Applicants respectfully traverse these rejections.

The German patent discloses a prior art bushing assembly in which a single bushing 1 includes a flange head 5 installed into a hole 3 in a web 4 by axially, radially, and laterally displacing bushing material (Abstract and Figures 2-3). A punch 15 is used to radially expand some of the bushing material into the web 4, while yet other bushing material is axially and laterally extruded beyond the rim of the hole 3 of the web 4 to form a second flange (Figure 3) on the opposite side of the web 4 from the flange head 5. The German patent teaches that the bushing material extruded beyond the rim of the hole 3 that forms the second flange provides axial fixity of the bushing 1 within the web 4 (Abstract and Figures 2-3). Further, radial fixity is provided between the bushing 1 and the web 4 in response to the punch 15 being drawn through the hole 10 in the bushing 1 to cause a radial expansion thereof (Abstract and Figures 2-3). A bushing cap 23 is affixed to the entire assembly with a threaded bolt 20a and a nut 21 (Figure 4). Accordingly, the German patent teaches that axial fixity is provided by extruding some of the bushing material out of the hole 3 in the web 4, while radial fixity is provided by radially expanding the cylindrical stem 2 of the bushing 1 to stably couple the bushing 1 in the hole 3 of the web 4 (Abstract and Figures 2-3).

Gänslein incorporates the teachings of the German patent into the illustrated and described bushing assembly (Gänslein, English translation; lines 6-8[1]). Gänslein teaches that two nested bushings 1,2 are installed in a rail web 9 (Figure 2). The respective bushings 1,2 are rotationally and translationally fixed together (Gänslein, English translation; lines 20-21). Specifically, Gänslein teaches that axial fixity between the bushings 1,2 is obtained by drawing a mandrel 11 through the inner bushing 1 to axially and laterally extrude bushing material from the inner bushing 1 out of the hole of the rail web 9 and into a turned-out hollow 8 formed in the outer bushing 2 (Gänslein, English translation; lines 15-21). The axially and laterally extruded bushing material from the inner bushing 1 takes the form of a flange 14 (Figure 3). Of particular interest is that Gänslein teaches the following:

[1] All references to the Gänslein patent, from this point forward, are made with respect to the English translation.

(1) the inner bushing 1 is axially and radially fixed to the outer bushing 2 due to the process of pulling the mandrel 11 through the hole of the inner bushing 1 after the inner and outer bushings 1,2 have been nested together and supported in the bore 10 of the rail web 9 as indicated in Figures 1-3; and

(2) the outer bushing 2 is axially fixed with respect to the rail web 9 due to the flange head 4 of the inner bushing 1 cooperating with the extrusion-formed flange 14 of the inner bushing 1.

Gänslein does not teach or provide any suggestion as to how or even if the outer bushing 2 is radially fixed with respect to the rail web 9. Applicants submit that Gänslein does not teach, suggest, or provide any motivation for radially expanding the outer bushing 2 into the rail web 9. Consequently, there is no rotational fixity between the outer bushing 2 and the rail web 9. Importantly, when Figure 2 is compared with Figure 3, it is apparent that the thickness of the inner bushing 1 is reduced while the thickness of the outer bushing 2 *does not change* in response to the drawing of the expansion mandrel 11. In summary, Gänslein uses the teachings of the German patent to secure the inner bushing 1 with the outer bushing 2, but does not disclose radially expanding the outer bushing 2 into the bore 10 of the rail web 9 when installing a pair of nested bushings 1, 2.

Applicants' claim 12 recites, *inter alia*, "*radially expanding the second tubular section of the second bushing by an amount sufficient to cause a radial expansion of both the first tubular section of the first bushing and the opening in the work member*, the radial expansion of the second tubular section causing a tight interference fit between the second bushing, the first bushing, and the work member, respectively, *the tight interference fit sufficient to axially and radially restrain the first tubular section and the second tubular section with respect to the work member*" (emphasis added). Applicants respectfully submit that the above-emphasized features of claim 12 are not disclosed or taught by Gänslein or by the combination of Gänslein and the German patent. Consequently, Applicants assert that claim 12 is novel over Gänslein. In addition, claim 14, which depends from claim 12, is allowable because it depends from allowable base claim.

Rejections Under 35 U.S.C. § 103

The Examiner rejected claim 13 under 35 U.S.C. § 103(a) as being rendered obvious over Gänslein and in view of the Abstract of EP 01202458. Applicants have attached a copy of the EP 01202458 reference to show that this reference is non-analogous art. In reviewing the file and the originally filed Information Disclosure Statement (IDS), Applicants note that the IDS submitted on January 30, 2002 by prior counsel incorrectly listed the combination of the term "EP" with the INID code (21) Application No. 0102458.4; and dropped the ".4." *See* MPEP § 901.05(b) (INID is an acronym for Internationally agreed Numbers for the Identification of bibliographic Data). Applicants submit that the proper method of citing prior art references is to use INID code (11), which is the number in the top, right corner of the patent application or issued patent. The reference that prior counsel cited should have been identified as EP 1166951 A1 (the '951 application), copy attached.

Even though Applicants have identified that the '951 application in the IDS, Applicants submit that the '951 application is not prior art with respect to the pending application. The '951 application is co-owned by Applicants' assignee and claims priority to U.S. Application No. 09/603,857 (the Parent application). The pending application that prompted the current Office Action is a divisional of the Parent application. Thus, the '951 application, the Parent application, and the pending application each have the same filing date by virtue of being in the same patent family. Consequently, the '951 application cannot be a prior art reference with respect to the present application.

Based on the foregoing, the Section 103 rejection of claim 13 must rely solely on Gänslein. But, relying on Gänslein alone defeats the Examiner's obviousness rejection because Gänslein does not teach, suggest, or provide any motivation to accomplish the recited limitation of claim 13, *to wit*: "radially expanding the second tubular section of the second bushing introduces fatigue life enhancing compressive residual stresses in the work member immediately around the opening in the work member." Accordingly, Applicants submit that Gänslein does not render claim 13 obvious.

In addition, the Examiner rejected claim 21 under 35 U.S.C. § 103(a) as being rendered obvious over Gänslein. Applicants have canceled claim 21.

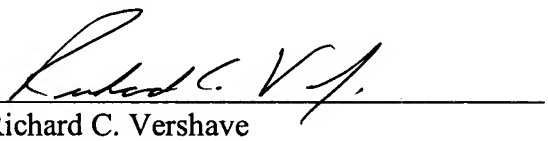
Conclusion

Overall, the cited references do not singly, or in any motivated combination, teach or suggest the claimed features of the embodiments recited in independent claim 12, and thus such claim is allowable. The remaining claims depend from the allowable independent claim and are likewise allowable.

In light of the above amendments and remarks, Applicants respectfully submit that all pending claims are allowable. Examiner Omgba is encouraged to contact Mr. Vershave by telephone to discuss the above and any other distinctions between the claims and the applied references, if desired. All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Richard C. Vershave
Registration No. 55,907

RCV:asl

Enclosures:
Postcard
German Patent No. 0891007
EP 1202458 A1 (non-analogous art)
EP 1166951 A1 (formerly and mistakenly cited as EP 1202458)

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

568003_1.DOC